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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,071	12/19/2001	Thomas Harold Roessler	KCC-16,085	8345

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EXAMINER

GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/025,071	ROESSLER	
	Examiner	Art Unit	
	Linda L Gray	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3-8-04, 3-18-04, 4-21-04, and 5-27-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date **
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. **Claims 1-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler (US 5,683,531) in view of Gardner, Jr. (US 2003/0226634 A1).**

Claims 1 and 23-24, Roessler et al. teach supplying retention composite web 58 having absorbent material 60 adhered to sheet 66 and cut into product lengths at 74, providing soft and flexible backsheet 14, adding soft and flexible waist elastic 48a to backsheet 14, adding soft and flexible leg elastic 30/32/34/36 to backsheet 14, coating the construction of 14, 48a, and 34/36 with adhesive and adhering the product lengths between elastic 48a and 34/36 to backsheet 14, adhering soft and flexible topsheet 76 over the construction including the backsheet 14 and the product lengths, and cutting into individual absorbent personal care products 112. Note the product lengths entirely between elastic 48 and 34/36.

Claim 1, Roessler et al. do not teach using a liquid barrier sheet instead of tissue 70 under the retention composite web 58.

However, Gardner teaches making an absorbent diaper undergarment as well where there is provided absorbent material 36 adhered to liquid barrier 60. Barrier 60 is provided to keep the liquid absorbed into 36 from seeping through to the backsheet for added protection.

Art Unit: 1734

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Roessler et al. using a liquid barrier sheet instead of tissue 70 to provided added protection to the absorbent article of Roessler et al. in that Gardner teaches such in the same art of making absorbent articles.

Claim 1, Roessler et al. do not teach a fluid distribution layer adhered to the product length.

However, fluid distribution layers are conventionally used because such provide control as to where the fluid is absorbed, i.e., for even distribution or separated distribution, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Roessler et al. a fluid distribution layer adhered to the product lengths.

Claims 2-6, the barrier of Roessler et al. modified liquid impermeable, vapor permeable, inherently breathable, elastic, and can be extended.

Claims 7-8 and 10-11, backsheet 14 is hydrophobic, vapor permeable, elastic, and extensible.

Claim 9, Roessler et al. do not teach backsheet 14 to be 0.6 osy spunbound, and claim 19, Roessler et al. do not teach topsheet 76 14 to be 0.5 osy spunbound.

For **claim 9,** however, it is conventional to use such for correct vapor permeability and hydroresistance, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

For **claim 19,** however, it is conventional to use such for correct permeability, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al..

Claims 12-13 and 15-16, elastic 48a and 34/36 are liquid impermeable and vapor permeable.

Claims 14 and 17, Roessler et al. do not teach elastic 48 to be SBL laminate and elastic 34/36 to be SMS nonwoven laminate.

Art Unit: 1734

However, it is conventional to use such for correct liquid impermeability and vapor permeability, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

Claim 18, topsheet 76 is liquid impermeable. **Claims 20-21**, topsheet 76 is elastic and extensible.

Claim 25, Roessler et al. do not teach containment flaps.

However, containment flaps are conventionally used to prevent unnecessary leakage, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided for such in Roessler et al.

3. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler (US 5,683,531) in view of Gardner, Jr. (US 2003/0226634 A1) as applied to claims 1-21 and 23-35 above, and further in view of Roessler et al. (US 5,405,342).

Claim 22, Roessler et al. modified do not teach wrapping the pad made by absorbent fluff material 60 within tissue 66.

However, Roessler et al.'342 teach wrapping an absorbent fluff in a tissue to help maintain the structure of the absorbent core.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Roessler et al. wrapping the pad made by absorbent fluff material 60 within tissue 66 because Roessler et al. teach wrapping an absorbent fluff in a tissue to help maintain the structure of the absorbent core.

Response to Comments

4. Applicant's comments filed 4-21-2004 have been fully considered. This action is nonfinal in view of a change of position with respect to claim 1. The Office action of 2-12-2004 inadvertently recited 66 and 62 instead of 60 and 66, respectively, see Office action at page 2, paragraph 3, line 4. Absorbent material 60, as shown in Roessler et al.'s Figure 1, is the item laid upon item 66. In any event, the Examiner misread 66 as being elastic barrier when such is actually permeable to liquid for 66 is tissue. Claim 22 was reevaluated thereafter and the statement of allowable subject matter has been changed.


Art Unit: 1734

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg 
July 12, 2004


LINDA GRAY
PRIMARY EXAMINER